

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PETER DAVIS	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION
v.	:	
	:	14-1490
CORIZON HEALTH, INC., et al,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 9th day of February 2015, upon consideration of the defendants' motions to dismiss, doc. nos. 40, 53 and 71, plaintiff's response thereto, doc. nos. 47, 92 and 93,¹ and upon further consideration of the Commonwealth's motion for leave to file reply, doc. no. 94, and plaintiff's motion to file surreply, doc. no. 95, **IT IS HEREBY ORDERED** that:

1. The Commonwealth's motion for leave to file a reply, doc. no. 94, is **GRANTED** The Commonwealth's reply brief is deemed filed. Doc. no. 94, 3-8.
2. Plaintiff's motion to file a surreply brief, doc. no. 95, is **GRANTED**. Plaintiff's surreply brief, doc. no. 95-1, is deemed filed.
3. The motions to dismiss (doc. nos. 40, 53 and 71) are **GRANTED in part**.
4. Counts 1, 2, 5 and 6 are **DISMISSED with prejudice**.
5. Count 3 is **DISMISSED without prejudice**.

¹ I have warned plaintiff's counsel about filing replies without leave. Doc. no. 81. Mr. Davis originally responded to the Philadelphia defendants' motion to dismiss on May 2, 2014. Doc. no. 47. He then filed a surreply or supplemental briefing on October 31. Doc. no. 90. The Philadelphia defendants did not reply, and Mr. Davis did not seek leave to file the October 31 brief. Therefore, I have not considered Mr. Davis's surreply.

6. Count 7 is **DISMISSED with prejudice** as to the Philadelphia defendants.
Count 7 is **DISMISSED without prejudice** as to all other defendants.

7. Count 8 is **DISMISSED with prejudice** as to the Philadelphia defendants, Mr. Wetzel, Mr. Oppman, Mr. Wenerowicz, Ms. Harry and Mr. Mooney. Count 8 is **DISMISSED without prejudice** as to all other defendants.

8. Defendant's motion to dismiss Count 4 is **DENIED**.

9. Plaintiff's claims against the Commonwealth defendants acting in their official capacities are **DISMISSED with prejudice**.

10. Within 14 days of the entry of this order, plaintiff may file a second amended complaint consistent with the preceding memorandum.

BY THE COURT

/s/ Lawrence F. Stengel
LAWRENCE F. STENGEL, J.